

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**TIMOTHY S. MANN,
Plaintiff,
v.**

Case No. 06C1237

**LISA BAKER,
Defendant.**

ORDER

Plaintiff seeks relief under 42 U.S.C. § 1983 and has requested leave to proceed in forma pauperis, pursuant to 28 U.S.C. § 1915. On December 4, 2006, I ordered him to pay an initial partial filing fee according to § 1915. Plaintiff has filed letters which I construe as containing a motion to amend the caption in this case to reflect the true name of the defendant and a request for clarification of my December 4, 2006, order.

I will grant plaintiff's motion to amend the caption without further ado.

As to the initial partial filing fee, it was calculated using the average monthly deposit into plaintiff's prison account of \$41.02 and the average monthly balance of \$0. In accordance with § 1915(b)(1), I ordered plaintiff to pay an initial partial filing fee of \$8.20 (twenty percent of \$41.02). Plaintiff contends that he has no way to pay such filing fee. According to the April 26, 1996 amendments to 28 U.S.C. § 1915, plaintiff prisoners must still pay the entire statutory filing fee of \$350, regardless of whether in forma pauperis status is ultimately granted. 28 U.S.C. § 1915(b)(1); Newlin v. Helman, 123 F.3d 429, 432 (7th Cir. 1997), overruled on other grounds by Lee v. Clinton, 209 F.3d 1025 (7th Cir. 2000).

However, though a prisoner is ultimately required to pay the full amount of the filing fee, § 1915(b)(4) provides that "[i]n no event shall a prisoner be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the prisoner has no assets

and no means by which to pay the initial partial filing fee." Thus, if the deadline for paying the initial partial filing fee approaches and plaintiff still finds that he is without sufficient funds to pay such fee, he may request that I allow him to proceed without payment of the initial partial filing fee, pursuant to § 1915(b)(4).

Therefore,

IT IS ORDERED that the caption in this case is amended to read Timothy S. Mann v. Lisa Baker.

IT IS ALSO ORDERED that copies of this order be sent to the warden of the institution where the inmate is confined and to Corey F. Finkelmeyer, Assistant Attorney General, Wisconsin Department of Justice, P.O. Box 7857, Madison, Wisconsin, 53707-7857.

Dated at Milwaukee, Wisconsin, this 12 of December, 2006.

/s _____
LYNN ADELMAN
District Judge